REMARKS

This is a full and timely response to the non-final Office Action of September 2, 1998. Upon entry of this First Response, claims 1-21 and 23-49 remain pending in this application. Reexamination, reconsideration, and allowance of the application and all presently pending claims are respectfully requested.

Response to §102 Rejections

"(T)he fact that an application has named a different inventive entity than a patent does not necessarily make that patent prior art." *Applied Materials Inc. v. Gemini Research Corp.*, 15 U.S.P.Q.2d 1816, 1818 (Fed. Cir. 1988). "(A)n applicant's own work, even though publicly disclosed prior to his application, may not be used against him as a reference, absent the existence of a time bar to his application." *In re DeBaun*, 214 U.S.P.Q. 933, 935 (C.C.P.A. 1982). Therefore, an applicant may overcome a rejection based on a patent "by showing that the patent disclosure is a description of applicant's own previous work. Such a showing can be made by proving that the patentee was associated with applicant (*e.g.* worked for the same company) and learned of applicant's invention from applicant." M.P.E.P. §2136.05; see also *In re Mathews*, 161 U.S.P.Q. 276 (C.C.P.A. 1969).

Claims 1-14, 27, 28, 31-35, 37-41, 43-47, and 49

Claims 1-14, 27, 28, 31-35, 37-41, 43-47, and 49 presently stand rejected under 35 U.S.C. §102 as allegedly being anticipated by *Ross* (U.S. Patent No. 5,648,770). However, Applicant submits that the subject matter disclosed by *Ross* and used by the Office Action to reject pending

claims 1-14, 27, 28, 31-35, 37-41, 43-47, and 49 is the product of Applicant's own previous work and, therefore, should not be used to reject the aforementioned claims. In this regard, Applicant submits the accompanying Declaration Under 37 C.F.R. §1.132 in support thereof.

As a result, *Ross* is not a valid reference under 35 U.S.C. §102(e), and the rejection to these claims should be withdrawn.

Response to §103 Rejections

Claims 36, 42, and 48

Claims 36, 42, and 48 presently stand rejected under 35 U.S.C. §103 as purportedly being obvious to *Ross* (U.S. Patent No. 5,648,770), and in the alternative, *Ross* (U.S. Patent No. 5,444,444). However, for the same reasons set forth hereinabove in the arguments for allowance of pending claims 1-14, 27, 28, 31-35, 37-41, 43-47, and 49, Applicant submits that the subject matter disclosed by *Ross* (U.S. Patent No. 5,648,770) and *Ross* (U.S. Patent No. 5,444,444) and used to reject pending claims 36, 42, and 48 of the present invention constitutes Applicant's own prior work. Therefore, *Ross* (U.S. Patent No. 5,648,770) and *Ross* (U.S. Patent No. 5,444,444) are not valid prior art references, and the rejection to pending claims 36, 42, and 48 should be withdrawn.

Response to Double Patenting Rejections

Claim 15 presently stands rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 61, 67, 72, 76, and 79 of U.S. Patent No. 5,668,543 and over claims 4 and 12 of U.S. Patent No. 5,657,010. Also, claims 15-21 and 23-49 presently stand rejected under the judicially created doctrine of obviousness-type double patenting

as being unpatentable over claims 1-16 of U.S. Patent No. 5,623, 260. Furthermore, claims 1-21 and 23-49 presently stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over (1) claims 1-80 of U.S. Patent No. 5,668,543; (2) claims 1-15 of U.S. Patent No. 5,657,010; and (3) claims 1-24 of U.S. patent No. 5,400,020. In order to further prosecution of the present application, terminal disclaimers are filed herewith in compliance with 37 C.F.R. §1.321(c). Accordingly, Applicant respectfully requests that the aforementioned double patenting rejections be withdrawn.

In filing the terminal disclaimers, Applicant relies upon the rulings of the Federal Circuit that the filing of a terminal disclaimer does not act as an admission, acquiescence or estoppel on the merits of the obviousness issue. "In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection." *Quad Environemental Tech. v. Union Sanitary Dist.*, 946 F.2d 870, 874 (Fed. Cir. 1991); *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

CONCLUSION

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted ,

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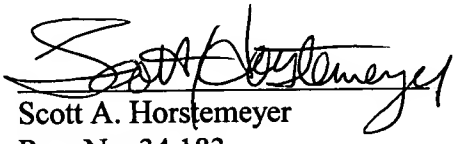
By: 

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